

Message Text

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ACTION EUR-12

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UNCLAS USNATO 0192

E.O. 11652: N/A

TAGS: MARR NATO

SUBJ: NICS/TARE PROCUREMENT

REF: USNATO 0124

SUMMARY. MISSION REPORTS OUTCOME OF PAYMENTS AND PROGRESS (P&P) COMMITTEE DISCUSSION ON 16 JANUARY CONCERNING US CONTRACTORS' COMMENTS ON TARE PROCUREMENT. IN ADDITION, NICSMA AGREED TO A 30-DAY EXTENSION OF DEADLINE FOR TARE BIDS. ACTION REQUESTED: DEPARTMENT OF COMMERCE NOTIFICATION OF EXTENSION TO ALL INTERESTED US BIDDERS. END SUMMARY.

1. AS FORECAST IN REFTEL, MISSION RAISED AT P&P COMMITTEE MEETING 16 JANUARY SUBJECT OF NICSMA REPLIES TO US CONTRACTORS' QUESTIONS. ANSWERS ARE KEYED TO SUB-PARAGRAPHS OF PARA 1, REFTEL.

A. ITEM B. P&P COMMITTEE AGREED THAT NICSMA SHOULD AUTHORIZE ON A SELECTIVE BASIS CONTRACTOR PROCUREMENT OF LONG-LEAD TIME ITEMS DURING PHASE I UP TO A LIMIT OF 10 PCT OF THE CONTRACT VALUE.

B. ITEM D. NICSMA STATED ITS INTENT NOT TO CHARGE CONTRACTORS FOR LIQUIDATED DAMAGES FOR SITE DELIVERY DELAYS WHICH UNCLASSIFIED

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WERE CAUSED BY OTHER THAN PRIME CONTRACTOR NEGLIGENCE OR MIS-MANAGEMENT. IN EFFECT, CONTRACT CLAUSE 38, "LIQUIDATED DAMAGES" REFERS TO THE CONDITIONS UNDER CONTRACT CLAUSE 15, "DEFAULT", WHICH STATE THAT SUB-CONTRACTOR PROBLEMS, LACK OF AVAILABILITY

OF RAW MATERIALS, ETC., CAN BE EVOKED BY PRIME CONTRACTORS AS EXCUSABLE REASONS FOR DELAY OR OTHER DEFAULT. NICSMA WILL MAKE ITS LIBERAL INTERPRETATION OF THE LIQUIDATED DAMAGES CLAUSE MORE CLEAR AS AN INSERT TO THE P&P COMMITTEE RECORD OF 16 JANUARY MEETING. MISSION WILL FURNISH THE RECORD TO WASHINGTON AGENCIES WHEN RECEIVED.

C. ITEM G. US REP (LOVELAND) NOTED PROBLEM OF EVALUATION BASED ON 19 TARES PER REFTEL. COMMITTEE RECOGNIZED PROBLEM BUT ACCEDDED TO NICSMA PLEA THAT NO CHANGE BE MADE AT THIS LATE DATE IN THE BIDDING PROCEDURE. IT WAS GENERALLY CONCEDED THAT CONTRACTORS WILL CHARGE THEIR NON-RECURRING COSTS TO THE FIRST 12 TARES IN ORDER TO PROTECT THEMSELVES AGAINST THE PROBABILITY OF A REDUCED NATO BUY.

D. ITEM H. NICSMA INSISTED ON NECESSITY FOR CONTRACTORS TO SURVEY INSTALLATION SITES PRIOR TO SUBMITTING BIDS BECAUSE OF NECESSITY TO ENSURE ADEQUATE ACCESS TO THE SITE FOR THEIR EQUIPMENT. NICSMA LEGAL REP PARTICULARLY NOTED THAT CONTRACTORS WILL NOT BE HELD LIABLE FOR CONDITIONS WHICH COULD NOT BE DETECTED BY REASONABLE EXAMINATION OF THE SITE. NICSMA REP STATED THAT NICSMA DOCUMENTS ARE AS COMPLETE AS THEY COULD BE MADE SINCE THE SITES ARE NOT UNDER NATO CONTROL. NICSMA ALSO PROMISES MAXIMUM COOPERATION IN SECURING ACCESS TO THE SITES FOR ADEQUATELY CLEARED PERSONNEL. NICSMA NOTED THAT SEVERAL OF THE SITES WHICH DO NOT YET EXIST AND WHICH ARE SO IDENTIFIED IN THE BID DOCUMENTS REQUIRE NO SITE VISIT (E.G., SHAPE WAR HEADQUARTERS).

E. ITEM J. INTERNATIONAL STAFF JOINED US AND OTHER DELEGATIONS IN COMPLAINING OF CERTAIN TEST PROCEDURES SPECIFIED BY NICSMA, E.G., FUNGUS PROOFING AND PACKAGE DROP TEST BEFORE SHIPMENT. NICSMA AGREED TO REVIEW ALL OF THE SPECIFIED TEST PROCEDURES TO ELIMINATE ANY WHICH MIGHT UNNECESSARILY INCREASE THE COST OF THE TARE CONTRACT.

2. MISSION BELIEVES THAT ABOVE CLARIFICATIONS AND CHANGES WILL SATISFY ALL COMPLAINTS RECEIVED TO DATE FROM THE US UNCLASSIFIED

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CONTRACTORS. WE CONTEND, AND SO STATED DURING THE P&P COMMITTEE MEETING, THAT NICSMA ANSWERS TO MISSION QUESTIONS, AS WELL AS THE DECISIONS TAKEN IN THE MEETING OF 16 JANUARY, CONSTITUTE FORMAL INTERPRETATION OF THE CONTRACT TERMS AND CAN BE RELIED UPON BY THE CONTRACTORS.

3. US REP REQUESTED THAT NICSMA EXTEND THE BID DUE DATE BY 30 DAYS FROM CURRENT 19 FEBRUARY. AFTER SOME HESITATION, NICSMA AGREED TO THE EXTENSION. UK AND ITALIAN REPS COULD ACCEPT THE 30 DAY EXTENSION, BUT FRG REP ASKED FOR SEVEN WEEKS BECAUSE OF NECESSITY TO SURVEY INSTALLATION SITES. HE AGREED, HOWEVER, TO ACCEPT THE 30 DAY EXTENSION SUBJECT TO POSSIBLE FURTHER REQUEST AFTER CONSULTATION WITH HIS AUTHORITIES. REQUEST THAT DOC

NOTIFY US CONTRACTORS THAT BID DUE DATE HAS BEEN EXTENDED FROM
19 FEBRUARY TO 21 MARCH.BRUCE

UNCLASSIFIED

<< END OF DOCUMENT >>

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Decaption Date: 01 JAN 1960
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